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93d CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
1st Session } No. 93-392

## FEDERAL EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

JULY 24, 1973.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. DULSKI, from the Committee on Post Office and Civil Service,  
submitted the following

### REPORT

together with

### SEPARATE AND MINORITY VIEWS

[To accompany S. 1989]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 1989) to amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### PURPOSE

The major purposes of this legislation are—

- (1) to provide a biennial review and adjustment rather than a quadrennial review and adjustment of executive, legislative, and judicial salaries; and
- (2) to provide that the recommendations of the President to the Congress on the adjustment of such salaries be submitted not later than August 31, 1973, and not later than August 31 of each second year thereafter, rather than during January 1974, and the January of each fourth year thereafter.

### COMMITTEE ACTION

The full committee held hearings on this legislation on July 17, 1973, at which representatives of several employee organizations and the following witnesses all testified in favor of the bill:

The Honorable Robert E. Hampton, Chairman, U.S. Civil Service Commission;

Mr. Rowland F. Kirks, Director, Administrative Office of the U.S. Courts, accompanied by Mr. William R. Sweeney, Deputy Director, Administrative Office of the U.S. Courts; and

Mr. David H. McAfee, Staff Director, Commission on Executive, Legislative, and Judicial Salaries.

The Committee ordered the bill reported by a record vote of 14 to 8.

#### SUMMARY OF S. 1989

The bill was called up in the Senate under a unanimous consent request and passed the Senate on July 9, 1973. It has the strong support of both the executive and judicial branches of the Government. The major features of S. 1989 are set forth below.

(1) The procedure for adjusting the executive, legislative, and judicial salaries is changed from 4-year intervals to 2-year intervals in order to avoid the sizable increases that are necessary to maintain more current pay comparability with related economic conditions.

(2) The President's recommendations to the Congress on adjustments in executive, legislative, and judicial salaries will be submitted not later than August 31 every 2 years, starting in 1973, rather than the January following completion of the surveys every 4 years.

(3) The period during which Congress has an opportunity to consider the President's recommendations before the recommendations become effective is changed from 30 calendar days to 30 calendar days of continuous session of Congress in order to assure that each House of Congress has sufficient time to consider the President's recommendations.

Under the new timing, the 1973 recommendations, unless vetoed by either House of Congress, will become effective in October rather than during the following March. This change in the effective date of the recommendations has no effect on the effective date of the salary adjustments since the President is authorized to establish a later effective date for the salary adjustments included in his recommendations. These provisions of law anticipate that the President, if he so desires, could include an effective date sometime in 1974, even though the recommendations under this legislation could become effective sometime in October.

(4) The authority to include recommendations for salary adjustments for the Board of Governors for the Postal Service is eliminated.

(5) The bill extends the procedure for adjusting salaries to include the salaries of the Members of Congress who serve in the top leadership positions (Vice President, President pro tempore of the Senate, Speaker of the House of Representatives, and the Majority and Minority Leaders of both Houses).

#### STATEMENT

Section 225 of the Federal Salary Act of 1967, title II, Public Law 90-206, provides for the establishment, every 4 years, of a Commission on Executive, Legislative, and Judicial Salaries, three members appointed by the President of the United States, one of whom is designated as Chairman by the President; two appointed by the

Senate; two appointed by the Speaker of the House; and two appointed by the Chief Justice of the United States.

The members of the Commission for fiscal year 1973 are the following—

Appointments by the Speaker on July 17, 1972:

Mr. Edward H. Foley of Washington, D.C.; and

Mr. William S. Spoelhof of Michigan.

Appointments by the Vice President on September 12, 1972:

Mr. Joseph Meglen of Montana; and

Mr. Bernard G. Segal of Pennsylvania.

Appointments by the President on December 11, 1972:

Mr. Arch A. Patton of Washington, D.C., Chairman; senior partner of McKinsey & Co.;

Mr. David Packard of Palo Alto, Calif., executive vice president, Hewlett-Packard Co.; Deputy Secretary of Defense, 1969-1971; and

Mr. John H. Lyons of St. Louis, Mo., general president, International Association of Bridge Structural & Ornamental Iron Workers.

Appointments by the Chief Justice of the Supreme Court, December 1972:

Mr. Roger M. Blough, former chairman of the board, United States Steel; and

Mr. William T. Gossett, former general counsel, Ford Motor Co., and former president, American Bar Association.

The function of the Salary Commission, which serves for 1 fiscal year, is to study and review the compensation of the top officials of the executive branch under the Executive Schedule, Members of Congress, justices and judges of the judicial branch, and certain other personnel of the judicial and legislative branches.

Under the act, the Commission reports its pay recommendations to the President no later than the January 1 following the close of the fiscal year in which the Commission makes its quadrennial pay review. The President then includes in his next budget to the Congress his recommendations on the exact rates of pay which he deems advisable for the offices and positions with which the Salary Commission is concerned. The President's recommendations become effective at the beginning of the first pay period which begins after the 30th day following the transmittal of his recommendations, unless Congress enacts a conflicting law or specifically disapproves all or part of his recommendations.

President Johnson appointed the first Salary Commission in July 1968, and the Commission reported its recommendations to the President in December of that year. The President's pay recommendations, made as a part of his January 1969 budget message, became effective, in accordance with the provisions of law, in March 1969.

The Commission for fiscal year 1973 was appointed by President Nixon in December 1972, too late for the Commission to conclude a review and formulate a report to the President by January 1, 1973. The Commission's report went to the President late in June 1973, and, under present law, the President's recommendations would be sent to the Congress with his budget message in January 1974.

S. 1989 would amend existing law to provide that hereafter the procedure for the review and report by the Commission to the President and the President's recommendations to the Congress would take place biennially (in odd-numbered years) rather than quadrennially. After fiscal year 1973, a new Commission would be appointed every second fiscal year, the term of each member to be for 1 fiscal year. The President is authorized to appoint a Commission for fiscal year 1975 and the Commission would make its report to the President on such date as the President may designate during the period January 1 through June 30 of the fiscal year in which the review is conducted. This procedure would be followed in successive 2-year periods.

The President would consider the Commission's report and make his pay recommendations to the Congress by August 31. If the Congress did not disapprove his recommendation by specific legislation changing the pay rates or by a resolution of disapproval passed by either body, the recommendations would become effective on the first day of the first pay period which begins after 30 calendar days of continuous session of Congress following the transmittal of the President's recommendations. The 30 days would not include sine die adjournments or adjournments of 3 days or more to a day certain. The committee included the "continuous-session" provision to assure that Congress would have ample opportunity to act, if it so desires, on the President's recommendations.

The Federal Salary Act provides that any part of the recommendations of the President may, if the recommendations so state, become effective at a later date. S. 1989 does not change that provision, thus continuing the President's authority to postpone the effective date if he believes such action is expedient.

#### JUSTIFICATION

##### *Magnitude of salary adjustments*

The quadrennial commission arrangement was intended to overcome the disadvantage that when pay increases were authorized for the top officials of the Government, they were so long in coming that their magnitude invited criticism from those unaware that years of inflation have intervened since the last pay adjustment.

In 1967, it was thought that the 4-year adjustment procedure would overcome this difficulty, but history has proven otherwise. Prior to 1969, salaries were being advanced at the rate of approximately 3 percent a year. It was anticipated that a 4-year advance would result in a 12-percent increase for the top salaries.

Since March 1969, when the last adjustment of executive, legislative, and judicial salaries became effective, other Federal rates of pay and the cost-of-living annuities were increased as shown below.

Government rates of pay increases since March 1969:

July 1969, 9.1 percent;  
December 1969, 6.0 percent;  
January 1970, 5.9 percent;  
January 1972, 5.5 percent;  
January 1973, 5.14 percent;

Projected for January 1974 on the basis of current guidelines, 5.5 percent, making a total of percentage increases of approxi-

mately 37 percent and an aggregate increase in the rates for GS-18 of 45.2 percent.

Cost-of-living civil service retirement annuity increases since March 1969:

November 1, 1969, 5.0 percent;  
August 1, 1970, 5.6 percent;  
June 1, 1971, 4.5 percent;  
July 1, 1972, 4.8 percent;  
July 1, 1973, 6.1 percent;

Total, 26.0 percent.

Each of the cost-of-living annuity increases includes a 1-percent bonus for a total bonus equal to 5 percent, and a total of 21 percent cost-of-living annuity increase since March 1969.

The consumer price index increased from 106.7 in January 1969 to 132.4 in June 1973, the last figure available. This represents a 24.1-percent increase.

In order to illustrate the magnitude of the increases for the top officials, there are set forth hereafter in this report the history of past salary adjustments, the rates recommended by the 1968 Commission, and the rates recommended by the President which went into effect in March 1969. It is to be noted that the 1968 Commission recommended that congressional pay should be \$50,000 at that time. President Johnson agreed that such amount was justified, but he recommended only \$42,500, on the basis that such rate "was considered preferable and more likely to receive the necessary support."

The magnitude of inflation of pay increases and of cost-of-living increases during the past 4 years results in the Congress being faced once again with the problem of having to consider pay adjustments for top officials of the Government that undoubtedly will invite criticism from those who do not understand, or tend to ignore, the effect such increases have had.

#### HISTORICAL DATA ON COMPENSATION OF MEMBERS AND SPEAKER

Following are selected historical data on compensation of Members and the Speaker.

Act of Sept. 22, 1789.—\$6.00 a day (\$7.00 a day for Senators during extra sessions); \$12 a day for the Speaker.

Act of March 10, 1796.—Previous Act repealed; \$6.00 a day set for both Members and Senators.

Act of March 19, 1816.—\$1,500 annually (\$3,000 for the Speaker). Repealed February 6, 1817.

Act of Jan. 22, 1818.—\$8.00 a day for Members (\$16.00 a day for the Speaker). Act of Aug. 16, 1856.—\$3,000 annually (\$6,000 for the Speaker), payable monthly.

Joint Res. Dec. 23, 1857.—\$250 a month for Members.

Act of July 28, 1866.—\$5,000 annually for Members (\$8,000 for the Speaker).

Act of Mar. 3, 1873.—\$7,500 for Members (\$10,000 for the Speaker).

Act of Jan. 20, 1874.—Previous Act repealed and \$5,000 annually restored to Members (\$8,000 for the Speaker).

Act of March 4, 1907.—\$5,000 to \$7,500 for Members (\$12,000 for the Speaker).

Act of March 4, 1925.—\$7,500 to \$10,000 for Members (\$15,000 for the Speaker).

Act of July 4, 1932.—Decreased from \$10,000 to \$9,000 (Speaker from \$15,000 to \$13,500. Economy Act).

Act of April 1, 1933.—Decreased from \$9,000 to \$8,500 (Speaker from \$13,500 to \$12,750. Economy Act).

Act of April 4, 1934.—Increased from \$8,500 to \$9,000 (Speaker from \$12,750 to \$13,500. Partial restoration).

Act of July 4, 1934.—Increased from \$9,000 to \$9,500 (Speaker from \$13,500 to \$14,250. Partial restoration).

Act of April 1, 1935.—Increased from \$9,500 to \$10,000 (Speaker from \$14,250 to \$15,000. Final restoration).

Act of July 3, 1945.—\$2,500 annual expense allowance (tax free) retroactive to January 3, 1945.

Act of August 2, 1946.—\$10,000 to \$12,500 for Members. (\$15,000 to \$20,000 for the Speaker), effective January 3, 1947.

Act of January 20, 1949.—\$20,000 to \$30,000 for the Speaker (and \$10,000 tax free expense allowance).

Act of October 20, 1951.—Expense allowance amended, effective January 3, 1953 (P.L. 183, 82d Congress); to make accountable for tax purposes but not subject to withholding tax.

Act of March 2, 1955.—\$12,500 to \$22,500 for Members. (\$2,500 expense allowance repealed). \$30,000 to \$35,000 for the Speaker (\$10,000 expense allowance for Speaker retained).

Act of August 14, 1964.—\$22,500 to \$30,000 for Members (\$35,000 to \$43,000 for the Speaker), effective at noon on January 3, 1965 (beginning of the 89th Congress). \$10,000 expense allowance for Speaker retained.

Act of October 29, 1965.—Compensation of the Majority and Minority Leaders of the House and Senate was raised from \$30,000 to \$35,000 per annum, effective October 1, 1965. (P.L. 89-301, sec. 11(e).)

Act of December 16, 1967.—\$30,000 to \$42,500 for Members, Salary Commission established by Public Law 90-206 recommended certain adjustments to the President. President, under the Act, recommended \$42,500 in his 1970 Budget, and under the law, this went into effect March 1, 1969, with respect to Members.

Act of September 15, 1969.—Speaker, from \$43,000 to \$62,500; Majority and Minority Leaders of House from \$35,000 to \$49,500, effective March 1, 1969. Bill also covers Vice President, President pro tempore of the Senate and Senate leaders. (P.L. 91-67.)

#### MENBERS' INCREASES

Public Law	Effective date	Period since last increase (years)	Increase	Amount of increase	Percent
59-129	Mar. 4, 1967	34	\$5,000- \$7,500	\$2,500	50
68-624	Mar. 4, 1925	18	7,500- 10,000	2,500	33
79-601	Jan. 3, 1947	22	10,000- 12,500	2,500	25
84-9	Mar. 1, 1955	8	12,500- 22,500	10,000	80
88-426	Jan. 3, 1965	10	22,500- 30,000	7,500	33
90-206	Mar. 1, 1969	4	30,000- 42,500	12,500	42

The 1968 recommendations by the Commission, as shown in the Commission report to the President, dated December 2, 1968, are set forth below.

## RECOMMENDED LEGISLATIVE SALARIES

DECEMBER 1968

In addition to the Members of Congress, nine other offices and positions in the legislative branch are within the scope of the Commission's study and review. These offices can be directly related to offices and positions in the executive branch, and on the basis of that comparison we have included them in the following recommendations:

	Number	Present salary rate	Proposed salary rate
Senators, Representatives, and the Resident Commissioner from Puerto Rico.....	531	\$30,000	\$50,000
Other offices in the legislative branch:			
Comptroller General.....	1	30,000	50,000
Assistant Comptroller General.....	1	29,500	46,000
General Counsel, General Accounting Office.....	1	28,750	43,000
Librarian of Congress.....	1	28,750	43,000
Public Printer.....	1	28,750	43,000
Architect of the Capitol.....	1	28,750	43,000
Deputy Librarian of Congress.....	1	27,500	40,000
Deputy Public Printer.....	1	27,500	40,000
Assistant Architect of the Capitol.....	1	27,500	40,000

## RECOMMENDED SALARIES FOR TOP LEVEL OFFICIALS IN THE EXECUTIVE BRANCH

DECEMBER 1968

We have striven to meet these objectives in formulating our recommendations:

- (1) To establish a compensation plan which will be logical and equitable in its internal and external relations.
- (2) To establish compensation more nearly commensurate with the importance and responsibilities of these positions.
- (3) To establish levels that will increase the ability of the Federal Government to attract and retain the highest possible talent.

The following table sets forth the present and proposed rates for the 665 top officials of the executive branch.

	Number	Present salary rate	Proposed salary rate
Level I—Heads of departments.....	12	\$35,000	\$60,000
Level II—Heads of major agencies, etc.....	64	30,000	50,000
Level III—Under Secretaries, etc.....	88	29,500	46,000
Level IV—Assistant Secretaries, etc.....	261	28,750	43,000
Level V—Heads of bureaus, etc.....	240	28,000	40,000

RECOMMENDED JUDICIAL SALARIES

DECEMBER 1968

The following table sets forth the recommended salaries for justices, judges, and other officers of the judicial branch, totaling 842.

	Number	Present salary rate	Proposed salary rate
Chief Justice of the United States.....	1	\$40,000	\$67,500
Associate Justices, Supreme Court.....	10	39,500	65,000
Judges, Circuit Court of Appeals.....	134	33,000	50,000
Judges, Court of Claims.....	9	33,000	50,000
Judges, Court of Military Appeals.....	3	33,000	50,000
Judges, Court of Customs and Patent Appeals.....	6	33,000	50,000
Judges, District Courts.....	407	30,000	47,500
Judges, Customs Court.....	13	30,000	47,500
Judges, Tax Court of the United States.....	22	30,000	47,500
Director, Administrative Office of the U.S. Courts.....	1	30,000	47,500
Deputy Director, Administrative Office of the U.S. Courts.....	1	28,000	40,000
Commissioners, Court of Claims.....	15	29,000	40,000
Referees in Bankruptcy (full-time maximum).....	180	22,500	40,000
Referees in Bankruptcy (part-time maximum).....	40,	11,000	20,000

The President submitted his recommendations on salary reform for top officials to the Congress in a supplement to the budget for fiscal year 1970 and by message dated January 19, 1969 (H. Doc. 91-51), which reads in part as follows:

I do recommend that the Kappel Commission proposals be put into effect for the top officials of the federal, judicial and executive branches. For them, I recommend the following pay scales:

Chief Justice: \$62,500.

Associate Justices of the Supreme Court: \$60,000.

Cabinet heads: \$60,000.

Of all the salaries, congressional compensation posed the most difficult problem of all and was the hinge on which my recommendations turned. As the Commission pointed out:

Members' salaries should be adjusted to compensate for the substantial and unique responsibilities they bear, to meet the cost peculiar to elective rather than appointive office, and to minimize the need to rely on other means of augmenting income.

The Commission then recommended that Congressional pay should be set at \$50,000.

Congressional salaries have been raised in slow and piecemeal fashion, far outpaced by pay increases in the rest of the economy. Over the past three decades, Congressmen have received only three pay increases—an average of one pay raise every ten years—to the current level of \$30,000, a salary which by today's standards is woefully inadequate.

I do not think that the American people want to see their elected representatives—who must bear the awesome burdens these critical times demand—serve their Nation at the price of financial hardship. I therefore believe that the \$50,000 Congressional salary recommended by the Kappel Commission can be justified.

A proper concern for history and tradition, however, suggests that the President should consult the leaders of Congress before he makes any recommendations concerning Congressional salaries.

I have done that.

These discussions and consultations revealed that Congress would be reluctant to approve a \$50,000 salary. When it comes to a pay increase, Congress puts its own members last in line. Instead, an increase to \$42,500 was considered preferable and more likely to receive the necessary support. I respect the desires of the leaders of the Congress. I therefore now recommend a \$42,500 salary for the Members of the House of Representatives and the Senate.

The Congressional salary I am recommending today represents an 89% increase over the level of compensation in 1955. I must point out, however, that during this same period salaries of the highest Civil Service career grade increased by well over 100 percent.

Civil Service salaries, moreover, will be adjusted periodically to keep them comparable to those in industry—while Congressional salaries must, under current law, remain unchanged for the next four years.

Projections indicate the following salary increases between 1955 and 1972:

- Congressional salaries—88.9 percent.
- Postal workers—90 percent.
- Average Federal worker—94 percent.
- Factory workers—94 percent.
- Government Wage Board employees—101 percent.
- GS-15 Career Civil Servant—109 percent.
- GS-18 Career Civil Servant—135 percent.

Thus, even with the recommended pay increase for our lawmakers, the increase in Congressional salaries will lag behind those of other Government workers and employees in the private sector.

Since the weight of custom and a sense of fairness require that we maintain and preserve proper pay relationships at the upper echelons of Government, the proposed \$42,500 Congressional salary requires that I make certain adjustments in the Kappel Commission's proposals for other top level salaries. Accordingly, I recommend the following pay scales:

- Level II (Heads of Major Agencies): \$42,500.
- Level III (including Under Secretaries): \$40,000.
- Level IV (Including Ass't Secretaries): \$38,000.
- Level V (Including Heads of Boards): \$36,000.

My recommendations for the other top level positions covered by the Kappel Commission are set forth in my budget in accordance with the requirements of Public Law 90-206.

The salaries of the Vice President, the Speaker of the House, the Majority and Minority Leaders of the House and Senate and the President Pro Tem of the Senate were

not, as such, covered by the Kappel Commission's charter. For this reason, I am submitting separate pay legislation embodying my recommendations, as follows:

Vice President: \$62,500.

Speaker of the House: \$62,500.

Majority and Minority Leaders of the House and Senate and President Pro Tem of the Senate: \$55,000.

*Executive branch compressions*

Another unfavorable feature of the quadrennial system is the effect it has had on executive branch compressions. The Federal pay comparability principle, established as public policy in 1962 (5 U.S.C. 5301), provides that Federal pay rates for employees shall be comparable with private enterprise pay rates for the same levels of work. The law establishes a system under which private enterprise pay rates determined upon the basis of Bureau of Labor Statistics figures are compared with those of the statutory pay system. The data are compiled in the spring and the Civil Service Commission subsequently sends its recommendations for pay adjustments to the President who considers the report and makes pay adjustments to become effective October 1. The President may, because of national emergency or economic conditions, send to Congress an alternative plan if he considers an October 1 pay adjustment inappropriate.

This procedure, in which statutory pay adjustments for employees follow those of the private sector, has satisfactorily translated policy into action, except in the upper levels of the General Schedule. Positions in grades GS-18, GS-17, and in four steps of GS-16, all have been fixed at \$36,000 a year because the law (5 U.S.C. 5308) prohibits incumbents of these positions from being compensated at rates higher than the rate of \$36,000 established by law for level V of the Executive Schedule. Officials in the Executive Schedule, members of the Federal Judiciary, and Members of Congress have had no pay increase since March 1969, when the President's recommendations to Congress based on the quadrennial Salary Commission's report became effective.

If the incumbent of a GS-18 position had received the regular comparability increases, his current rate of pay would be \$41,734. Thus, he is being denied comparability at the rate of \$5,734 per year. The quadrennial arrangement has effectively placed a ceiling on the pay of the Government's top managers; a compression has resulted, vitiating the implementation of the comparability principle.

*Summary*

It is because of these factors that the committee strongly recommends that the quadrennial system be changed to a biennial system. A biennial system will provide more timely adjustments of less magnitude and overcome the problem of executive branch compression.

**LEGISLATIVE OFFICIALS**

Historically, as shown in the table which follows, the pay of the Vice President and the Speaker of the House has been maintained at rates which were comparable with the rates of pay of the Justices of the Supreme Court and of members of the President's Cabinet. Also, the pay of the Majority and Minority Leaders of both Houses, and, beginning in 1969, the President pro tempore of the Senate, were

maintained at rates above the rates for Members and below the rates for the top leaders.

## PAY HISTORY—TOP OFFICIALS

	1949	1955	1965	1969
Vice President.....	\$30,000	\$35,000	\$43,000	\$62,500
Speaker.....	30,000	35,000	43,000	62,500
Cabinet officers.....	22,500	25,000	35,000	60,000
President pro tempore of Senate.....	15,000	22,500	30,000	49,500
Majority and minority leaders, House and Senate.....	15,000	22,500	35,000	49,500
Members of Congress.....	15,000	22,500	30,000	42,500
Chief Justice.....	25,500	35,500	40,000	62,500
Associate Justices.....	25,000	35,000	39,500	60,000
	Jan. 3, 1965, Public Law 88-426	Oct. 1, 1965, Public Law 89-301	Mar. 1, 1969, Public Law 91-67	
Vice President.....	\$43,000			\$62,500
Speaker.....	43,000			62,500
President pro tempore of Senate.....				49,500
Majority and minority leaders, House and Senate.....			\$35,000	49,500
Members of Congress.....		30,000		42,500

<sup>1</sup> Rate recommended by President under sec. 225, Public Law 90-206.

A system was established under section 225 of the Federal Salary Act of 1967, title II, Public Law 90-206, for the pay of Members of Congress, judges, and the top officials of the executive branch to be reviewed and adjusted every 4 years. The law omitted authority to continue the custom for the pay of the Vice President and the Speaker of the legislative branch to be maintained at rates comparable with the rates of pay of members of the Supreme Court and of the President's Cabinet and the other legislative officials at rates above the rates for Members, generally. This legislation corrects that omission.

While section 225 applies to Members of Congress, it does not include authority to maintain the pay of the Vice President or the pay of those Members of Congress who are the top officials of the legislative branch at the traditional relationship.

The Commission on Executive, Legislative, and Judicial Salaries, in its 1968 report to the President, commented on the omission in section 225 of authority to review the pay of these officers. On page 5 of its report, the Commission stated: "We believe it is essential that traditional relationships between these offices, the Supreme Court, and the Cabinet, be preserved."

It was also noted in the decision of the Civil Service Commission on this matter, as set forth in appendix B of the 1968 report, that the Commission on Judicial and Congressional Salaries, established by the act of August 7, 1953 (Public Law 83-220), had specific authority to determine appropriate rates of pay for the Vice President, the Speaker of the House of Representatives, and Members of Congress, but such specific authority was not included in the 1967 act.

As a result of the omission of specific authority for the Commission to make any recommendation in connection with the 1969 pay adjustment, the President, in his Message to the Congress (H. Doc. 91-51) regarding the adjustment of the salaries for the top officers of the Government, stated that he was recommending separate pay legislation for adjustments in the rates of compensation of the top officials of the Congress. That legislation was enacted as Public Law 91-67.

This legislation will correct the omission from the 1967 act and permit the President, beginning in 1973, to include recommendations

for pay adjustments for these officers in the reports he will make to the Congress as a result of the reviews conducted by the Commission on Executive, Legislative, and Judicial Salaries. It will overcome the need for separate legislation every 2 years, such as Public Law 91-67, in order to maintain the traditional relationship between the top offices of the Congress, the Supreme Court, and the Cabinet.

#### ANALYSIS OF S. 1989

The provisions of S. 1989 consist of several amendments to section 225 of the Federal Salary Act of 1967 (title II of Public Law 90-206, approved December 16, 1967).

Paragraph (1) of the bill amends the first sentence of section 225 (b)(3) of the 1967 act to provide that persons shall be appointed as members of the Commission on Executive, Legislative, and Judicial Salaries with respect to the 1973 fiscal year and every second fiscal year thereafter. Under existing law, members of the Commission are required to be appointed with respect to every fourth fiscal year following the 1969 fiscal year. Thus, the effect of this amendment, when considered in conjunction with the provisions of subsection (f) of section 225, is to require a biennial rather than a quadrennial review of the executive, legislative, and judicial salaries falling under the purview of the 1967 act.

The members of the present Commission were appointed in December 1972 (fiscal year 1973). In accordance with the provisions of this amendment, the next Commission will be appointed with respect to fiscal year 1975.

Paragraph (2) of the bill amends subsection (f)(A) of section 225 by including Delegates to the House of Representatives in the list of officers whose rates of pay are subject to review by the Commission on Executive, Legislative, and Judicial Salaries. At the present time, there are three Delegates to the House of Representatives—representing the District of Columbia, Guam, and the Virgin Islands.

Paragraph (3) of the bill amends subsection (f) of section 225 by deleting the provisions of the existing subparagraph (E) and inserting in lieu thereof a new subparagraph (E). The existing subparagraph (E) covers the Governors of the Board of Governors of the U.S. Postal Service who are appointed under section 202 of title 39, United States Code. The pay of such Governors currently is subject to review by the Commission on Executive, Legislative, and Judicial Salaries. The effect of this amendment is to exclude the pay of the Governors from review by the Commission and freeze such pay at the rates specified in 39 U.S.C. 202 (\$10,000 per year) until changed by legislative action.

The new subparagraph (E), as amended by paragraph (3) of the bill, would include certain specific officers of the Congress in the list of officers whose rates of pay are subject to review by the Commission. The officers concerned are the Vice President of the United States, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Majority and Minority Leaders of the Senate and the House of Representatives. Under existing law, the pay of these officers is not reviewed by the Commission and, therefore, can be adjusted only through the enactment of separate legislation. This amendment will obviate the need for separate legis-

lation. However, the new subparagraph (E) provides that the review by the Commission of the rates of pay of these officers shall be made commencing with fiscal year 1975. Thus, no review of these salaries will be conducted by the current Commission. It is expected that the traditional relationship between the top offices of the Congress, the Supreme Court, and the Cabinet will be maintained.

Paragraph (4) of the bill amends subsection (g) of section 225 in two respects. The effect of the first amendment is to include the officers listed in the new subparagraph (E) of section 225(f) (i.e., the Vice President, Speaker of the House, President pro tempore of Senate and Majority and Minority Leaders) among those officers whose pay is covered by the report and recommendations of the Commission on Executive, Legislative and Judicial Salaries. By virtue of this amendment, the report of the Commission to the President and its accompanying recommendations will apply to all of the officials whose pay is subject to review by the Commission under section 225(f), as amended by this act.

The second amendment to subsection (g) amends the last sentence thereof to provide that each report of the Commission to the President shall be submitted on such date as the President may designate during the period from January 1 through June 30 of the fiscal year in which the review is conducted by the Commission. Under the existing provisions of subsection (g) the Commission's report must be submitted to the President not later than January 1 next following the close of the fiscal year in which the review is conducted by the Commission. Under this amendment, the Commission's report must be sent to the President no later than the end of the fiscal year in which the review is conducted. This amendment to subsection (g) is necessitated by the amendment to subsection (h) of section 225, discussed immediately below.

Paragraph (5) of the bill amends subsection (h) of section 225, relating to the President's recommendations with respect to the rates of pay which he deems advisable for those offices and positions covered by the Commission's review under subsection (f). Under this amendment, the President is required to transmit his recommendations to the Congress not later than August 31 which first occurs after his receipt of the Commission's report under subsection (g). As discussed above, the Commission, under subsection (g), as amended by paragraph (4) of this bill, will be required to submit its report and recommendations to the President not later than the end of the fiscal year in which its review of pay is conducted.

The requirement for the President to submit his recommendations to the Congress not later than August 31 is effective with respect to calendar year 1973. As noted above, members of the Commission were appointed in December 1972. Their report and recommendations, resulting from the review which they conducted in fiscal year 1973, were transmitted to the President in June 1973. Under this amendment to subsection (h), the President will be required to submit his recommendations to the Congress no later than August 31, 1973.

Under the existing provisions of subsection (f) of section 225, the Commission does not review the rates of pay of the top officers of the Congress, such as the Vice President and the Speaker of the House. Although paragraph (3) of this bill amends subsection (f) to include

such officers in the list of those whose pay is reviewed by the Commission, the amendment does not take effect until fiscal year 1975. The report of the fiscal year 1973 Commission already has been submitted to the President and it is not known whether it includes any recommendations with respect to the pay rates of such officers.

In order to obviate the need for enacting separate legislation adjusting the pay rates of these officers, this amendment requires the President to transmit to the Congress recommendations concerning the rates of pay for such officers. These recommendations of the President must be transmitted to the Congress no later than August 31, 1973, and will become effective in fiscal year 1974 in accordance with the effective date provisions in subsection (i) of section 225. Commencing with fiscal year 1975, the rates of pay of such officers will be included in the review conducted by the Commission under subsection (f).

Paragraph (6) of the bill amends paragraph (1) of subsection (i) of section 225, relating to the effective date of the President's pay recommendations.

Under the existing provisions of paragraph (1) of subsection (i), the President's recommendations become effective at the beginning of the first pay period which begins after the 30th day following the transmittal of such recommendations to the Congress unless, before the beginning of such first pay period, the Congress enacts legislation establishing different rates of pay or either House of Congress specifically disapproves all or part of the President's recommendations.

Under the amendment to paragraph (1) of subsection (i), the President's recommendations would become effective at the beginning of the first pay period which begins after 30 calendar days of continuous session of Congress following the transmittal of such recommendations, rather than merely after 30 days following the transmittal of the recommendations as is now the case. The amendment further provides that the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

In connection with this matter, it should be noted that under the provisions of paragraph (2) of subsection (i), any part of the pay recommendations of the President may, if the President so directs, be made effective on a date later than such recommendations otherwise would become effective under paragraph (1) of subsection (i).

#### COST

The cost of conducting the reviews required under this legislation by the Commission on Executive, Legislative, and Judicial Salaries is estimated to be approximately \$100,000 for each review, beginning with the first review in fiscal year 1975, and every second fiscal year thereafter. The cost of operating the Commission was approximately \$20,000 in fiscal year 1968, and \$40,000 in fiscal year 1973. The Commission served only for 6 months in each of those years.

There is no way to estimate the cost of biennial salary adjustments or the cost of salary adjustments for the additional officials covered by this legislation until the amount of those adjustments, if any, are recommended by the President. The first year cost of the last quadrennial adjustment in 1969 was approximately \$21.5 million.

AGENCY REPORTS

The reports of the Civil Service Commission, the Office of Management and Budget, the Director of the Administrative Office of the U.S. Courts, and the U.S. Postal Service, are set forth below.

U.S. CIVIL SERVICE COMMISSION,  
*Washington, D.C., July 2, 1973.*

Hon. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on S. 1989, a bill "To amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries.

S. 1989 would change the timetable of the present quadrennial review and adjustment procedure for the salaries of the Government's top officials. Under the provisions of this bill, the Commission on Executive, Legislative, and Judicial Salaries would be required to submit its report to the President by the end of the fiscal year in which it is appointed, and the President would be required to transmit to Congress his own recommendations on new pay rates not later than the next August 31. The new pay rates would become effective at the beginning of the first pay period which begins after thirty days of continuous session of Congress after transmittal of the President's recommendations, unless the recommendations provided some later effective date or unless either House of Congress disapproved the recommendations. These changes in the timetable of the adjustment procedure would all become effective this year. S. 1989 also provides that in the future, starting in fiscal year 1975, this review and adjustment procedure will occur every two years instead of every four years.

The Civil Service Commission strongly supports all of these changes in the timing of the adjustment procedure for salaries of top officials. In particular, we believe a biennial rather than quadrennial adjustment cycle will be a considerable improvement.

S. 1989 would also bring the salaries of the Vice President, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the majority and minority leaders of the Senate and the House of Representatives within the scope of the review and adjustment process. We believe this will be a very desirable change, as it will obviate special legislation such as Public Law 91-67 each time the salaries of the Government's other top officials are adjusted. We note that S. 1989 would also remove from the review and adjustment procedure the rate of compensation for the members of the Board of Governors of the United States Postal Service. We must defer to the views of the Postal Service on the desirability of this change.

We are advised by the Office of Management and Budget that, from the standpoint of the Administration's programs, there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

*ROBERT HAMPTON, Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
*Washington, D.C., July 13, 1973.*

Hon. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on S. 1989, "To amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries."

The principal purpose of S. 1989 is to change the four-year timetable of the present procedure for review and adjustment of executive-level salaries to a two-year schedule, beginning in 1975. Effective this year, the bill would require the Commission on Executive, Legislative, and Judicial Salaries to submit its report to the President by the end of the fiscal year in which it is appointed. Further, the bill would require the President to transmit his recommendations for pay adjustments for positions at these levels not later than the next August 31. The new pay rates would be effective after 30 days of continuous session of Congress following the President's transmittal, unless the President's recommendations provide for a later effective date, or unless either House of Congress disapproves them.

In his report to your Committee on this bill, the Chairman of the Civil Service Commission supports the changes in the timing of these pay adjustments and indicates the biennial cycle would be a considerable improvement.

We concur in the views expressed by the Civil Service Commission and, accordingly, strongly urge enactment of S. 1989.

Sincerely,

WILFRED H. ROMMEL,  
*Assistant Director for Legislative Reference.*

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ADMINISTRATIVE OFFICE OF THE U.S. COURTS,  
SUPREME COURT BUILDING,  
*Washington, D.C., July 11, 1973.*

Hon. THADDEUS J. DULSKI,  
*Chairman, Post Office and Civil Service Committee,  
House of Representatives, Washington, D.C.*

DEAR CHAIRMAN DULSKI: In response to your request that the Federal Judiciary express its views on S. 1989 a bill to amend Section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative and judicial salaries, it is my pleasure to report that the Judicial Conference of the United States strongly supports this bill and urges its early enactment by the Congress.

As you know the Judicial Conference of the United States is the policy-making body of the Federal judicial system and by law makes recommendations to the Congress on legislative matters affecting the Federal Judiciary, its officers and employees. S. 1989 has been con-

sidered by the Executive Committee of the Judicial Conference and has been approved unanimously by that Committee.

The purpose of this legislation is to speed up the process under which the recommendations of the Commission on Executive, Legislative and Judicial Salaries, created by the Federal Salary Act of 1967, 81 Stat. 6142, 2 U.S.C. 351 et seq., may be presented by the President to the Congress. If S. 1989 is passed, the recommendations of the Salary Commission in 1973, and of the President with respect to these salaries, may go into effect approximately six months earlier than presently possible under existing law.

A second part of the bill would require the appointment of a Salary Commission biennially instead of quadrennially, as now provided by law. This would make possible a thorough review of the salary structure for Congressmen, Judges and high Government officials at shorter intervals of time and on a more regular basis.

It is fair to say that the provisions of the Federal Salary Act of 1967 relating to the functions of the Commission on Executive, Legislative and Judicial Salaries has not functioned as originally intended. The Salary Act of 1967 brought into the federal salary structure the concept of comparability between salaries in Government and in industry. As to Government employees generally this goal was substantially achieved by the pay increases granted in 1969. Since then Government employees generally have received cost-of-living increases which were designed to keep pace with the increases in the cost of living and increases in salaries granted to labor and employees in the private sector throughout the national economy.

By way of illustration. Since 1969 a government employee in the middle step of grade 15 of the General Schedule has received four cost-of-living increases aggregating on a compounded cumulative basis, 24.6%.

In the private sector during this same period of time the technical professions (GS-15 equivalent) received a 19.5% increase and union journeymen (average of 27 construction crafts), received a 42.2% increase in salary, both compounded cumulatively.

Government officials, including members of Congress and federal judges, whose salaries are determined by the process of the Salary Commission structure in the present law, have received no increase in four years. Under present law they cannot receive an increase in calendar 1973. This means that the earliest time an increase could be received under present law is 1974 and whatever increase is granted at that time would be fixed for the next four years unless as in the present case the Commission is not appointed at the appropriate time on this four-year cycle which could result in no increase taking place for five years as is the case today.

This is not the appropriate time or place to discuss what the Salary Commission should do under present law but it certainly is most timely for the Congress to consider amending the law as proposed by S. 1989 so that the Commission could act more quickly and more frequently than present law permits.

The relevance of citing the comparative salary data referred to above and in the attached sheets to this letter is several fold. First it

illustrates what has taken place both in and out of government service with respect to salary increases over the past four years while those executive, legislative and judicial salaries covered by the Federal Salary Act of 1967 have stood still. The figures indicate that generally salaries of others have advanced from 25 to 30%. This is a significant amount. In one sense of the word this is lost salary not to be recouped, to those who received no raise.

Second, it graphically highlights the fact that the cumulative percent increase for those not covered by the Federal Salary Act of 1967 becomes so great in four years that to achieve comparability the Commission is faced with, and in turn so is the President and the Congress, what amounts to a traumatic one-lump adjustment which cannot help but invite criticism, unjustified though it may be. To amend the law as proposed in S. 1989 to require the Commission procedure to function every two years rather than every four will tend to reduce the significance of this aspect of the problem.

Third, the feature of S. 1989 which would require Commission, President and Congressional action in calendar 1973 and every two years thereafter would have a particularly salutary effect in 1973 with respect to the top classified employees in the judicial system who are frozen in their present salaries which are fixed as a percent of the salary of a district judge as long as the salary of a district judge remains static.

As an example, referees in bankruptcy, U.S. magistrates, clerks of court and probation officers who have reached the top of their grades can no longer receive increases in salary as long as the district judge's salary remains at its present level. This of course prejudices this class of employee when compared with other employees not so restricted.

There are enclosed with this letter two tables showing what the salaries of United States circuit and district judges would be today if the cost-of-living salary increases granted other government employees and certain employees in the private sector had been authorized for them.

If there is merit to the concept of comparability, equality, parity, or fair play, then substantial salary increases for members of Congress and other Government officials covered by the Federal Salary Act of 1967 are long overdue and should not be delayed as long again. Under existing law the earliest time at which an increase can be forthcoming would be approximately March of next year—9 or 10 months away. S. 1989 would make it possible to put into effect by October of this year whatever increases may be recommended by the Salary Commission and approved by the President and the Congress.

The federal judiciary heartily supports this bill and hopes that it will be specifically enacted by the Congress.

Respectfully,

Rowland F. Kirks, Director.

Enclosures:

Effective date	General Schedule pay increases		Comparability increases for judges	
	Percentage increase	Salary, grade 15, step 4	Circuit judge	District judge
July 14, 1969		\$23,749	\$42,500	\$40,000
Dec. 27, 1969 <sup>2</sup>	6.0	25,174	45,050	42,400
Jan. 11, 1971	6.0	26,675	47,753	44,944
Jan. 10, 1972	5.5	28,142	50,379	47,416
Jan. 8, 1973	5.1	29,589	52,968	49,853
Cumulative loss through 1973			\$26,150	\$24,613
Projections:				
January 1974	5.5	31,216	55,881	52,595
January 1975	5.5	32,933	58,954	55,487
January 1976	5.5	34,744	62,196	58,539
January 1977	5.5	36,654	65,616	61,758
January 1978	5.5	38,670	69,225	65,154
Cumulative increase: <sup>4</sup>				
1973 over 1969	24.6	5,840	10,468	9,853
1974 over 1969	31.4	7,467	13,381	12,595
1975 over 1969	38.7	9,184	16,454	15,487
1976 over 1969	46.3	10,995	19,696	18,539
1977 over 1969	54.3	12,905	23,116	21,758
1978 over 1969	62.8	14,921	26,725	25,154

<sup>1</sup> Effective Mar. 1, 1969.

<sup>2</sup> Approved Apr. 15, 1970, retroactive to Dec. 27, 1969.

<sup>3</sup> These cumulative losses are the total dollars not received by the judges since 1969, because they did not receive the annual increases each year which were received by employees in the General Schedule. The \$24,613 total for district judges, for example, reflects the total not received by those judges since 1969—first, the \$2,400 increase indicated for them by the 6-percent increase awarded to the General Schedule employees on Dec. 27, 1969, and this \$2,400 loss was experienced for each of the 4 years, 1970, 1971, 1972, and 1973. Second, the next increase, granted on Jan. 11, 1971, was also lost to the district judges for a 3-year period, beginning with the year 1971, etc.

<sup>4</sup> It should be clearly understood that the percentages shown in this portion of the table are those reflecting the total increase over the period of years shown. Because of the compounding effect, any particular cumulative percentage increase will exceed the sum of the individual annual percentage increases during the period covered.

#### PRIVATE INDUSTRY PAY INCREASES<sup>1</sup>

	Technical professions (GS-15 equivalent)		Union journeymen (average of 27 construction crafts)	
	Percent	Amount	Percent	Amount
1969		\$27,092		\$12,209
1970	2.4	27,731	11.4	13,600
1971	-0.1	27,714	11.6	15,142
1972	11.2	30,827	27.0	16,224
1973	<sup>2</sup> 5.0	32,368	27.0	17,360
Projections:				
1974	5.0	33,987	7.0	18,575
1975	5.0	35,686	7.0	19,875
1976	5.0	37,470	7.0	21,266
1977	5.0	39,344	7.0	22,755
1978	5.0	41,311	7.0	24,348
Cumulative increase:				
1973 over 1969	19.5	5,276	42.2	5,151
1974 over 1969	25.4	6,895	52.1	6,366
1975 over 1969	31.7	8,594	62.8	7,666
1976 over 1969	38.3	10,378	74.2	9,057
1977 over 1969	45.2	12,252	86.4	10,546
1978 over 1969	52.5	14,219	99.4	12,139

<sup>1</sup> Bureau of Labor statistics data.

<sup>2</sup> Bureau of Labor statistics estimate.

U.S. POSTAL SERVICE,  
LAW DEPARTMENT,  
*Washington, D.C., July 9, 1973.*

Hon. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,*  
*House of Representatives,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: This report concerns S. 1989, a bill "To amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative, and judicial salaries", which is expected to pass the Senate soon and be sent to the House where it undoubtedly will be referred to your Committee.

Section 225 of the Federal Salary Act of 1967 provides for a Commission on Executive, Legislative, and Judicial Salaries appointed every four years to review compensation of certain government officials. The Commission makes recommendations concerning adjustment of such compensation to the President, who considers them and then submits his own recommendations to Congress. The bill would amend present law by: (1) requiring appointment of the Commission every two years rather than every four years, (2) establishing a mechanism to expedite consideration of the President's recommendations by Congress, and (3) making certain changes with regard to which officials are covered by the statutory procedures.

The Postal Service agrees there is a need to provide expeditious means for making equitable adjustments in the compensation of top Government officials. For this reason, the Service objects to the provision of the bill that would remove the pay of the presidentially-appointed Governors of the Postal Service from the Salary Commission's review by deleting the present reference to the Governors in section 225(f)(E) of the Salary Act. See 2 U.S.C. 356(E).

If the pay of the Governors is excluded from review by the Commission, it will be frozen at the level set by 39 U.S.C. 202 until an act of Congress amends that statutory provision. Although the Postal Service does not necessarily consider their present level of compensation inadequate, there is no apparent reason why the Governors should be denied the benefit of the administrative salary review procedures applicable to other top Government officials.

We have been advised the pay of the Governors was not included in the bill because they serve on an intermittent part-time basis, while others whose pay is subject to Commission review are full-time officers. There would appear to be no inherent reason why the Commission could not evaluate the pay of part-time officers and make recommendations thereon. Moreover, in view of the unique character and importance of their positions, the fact that they are part-time officers does not appear to be an adequate reason for omitting the pay of the Governors from the scope of Commission review. They are the ultimate authority in the Postal Service, since they appoint and may remove the Postmaster General and constitute, with him and the Deputy Postmaster General, the Board of Governors, charged with the direction of the exercise of the powers of the Postal Service. The inclusion of their pay in the scope of the Salary Commission's review by the Postal Reorganization Act was in recognition of the importance of the positions they occupy and of the need to adjust their pay along with the pay of other top officials, without requiring legislative action.

Leaving the statute as it now stands does not, of course, obligate the Commission to recommend an increase in compensation for the Governors if such action does not appear to be justified.

The Postal Reorganization Act granted broad independent authority to the Postal Service to determine administratively or through collective bargaining the pay of postal employees. It would be completely inconsistent with this action to tie the Governors' pay more rigidly into statute than that of other top officials working in agencies whose operations are not nearly as independent as those of the Postal Service.

As a technical matter, if the present provision of the Salary Act including the pay of the Governors—section 225(f)(E)—is retained, section (3) of the bill should insert into the Salary Act a new subparagraph (F) rather than replacing subparagraph (E) as it presently does. In addition, corresponding changes should be made in sections (4) and (5) of the bill to correct the inadvertent omission from the Salary Act of references in sections 225 (g) and (h) to section 225(f)(E), and to reflect the addition of section 225(f)(F) by the bill.

Sincerely,

LOUIS A. COX, *General Counsel.*

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CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 225 OF THE FEDERAL SALARY ACT OF 1967

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Sec. 225. (a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Commission on Executive, Legislative, and Judicial Salaries (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—

(1) The Commission shall be composed of nine members who shall be appointed from private life, as follows:

(A) three appointed by the President of the United States, one of whom shall be designated as Chairman by the President;

(B) two appointed by the President of the Senate;

(C) two appointed by the Speaker of the House of Representatives; and

(D) two appointed by the Chief Justice of the United States.

(2) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1969 fiscal year of the Federal Government, except that, if any appointment to membership on the Commission is made after the beginning and before the close of such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

(3) After the close of the 1969 fiscal year of the Federal Government, persons shall be appointed as members of the Commission with respect to [every fourth fiscal year following the 1969 fiscal year] *the 1973 fiscal year and every second fiscal year thereafter.* The terms of office of persons so appointed shall be for the period of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning and before the close of any such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

(4) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

(5) Each member of the Commission shall be paid at the rate of \$100 for each day such member is engaged upon the work of the Commission and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703(b) of title 5, United States Code, when engaged in the performance of services for the Commission.

(c) PERSONNEL OF COMMISSION.—

(1) Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and on a temporary basis for periods covering all or part of any fiscal year referred to in subsection (b) (2) and (3) of this section—

(A) the Commission is authorized to appoint an Executive Director and fix his basic pay at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code; and

(B) with the approval of the Commission, the Executive Director is authorized to appoint and fix the basic pay (at respective rates not in excess of the maximum rate of the General Schedule in section 5332 of title 5, United States Code) of such additional personnel as may be necessary to carry out the function of the Commission.

(2) Upon the request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of any fiscal year referred to in subsection (b) (2) and (3) of this section, any of the personnel of such department, agency, or establishment to assist the Commission in carrying out its function.

(d) USE OF UNITED STATES MAILS BY COMMISSION.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide administrative support services for the Commission on a reimbursable basis.

(f) FUNCTION.—The Commission shall conduct, in each of the respective fiscal years referred to in subsection (b) (2) and (3) of this section, a review of the rates of pay of—

(A) Senators, Members of the House of Representatives, *Delegates to the House of Representatives*, and the Resident Commissioner from Puerto Rico;

(B) offices and positions in the legislative branch referred to in subsections (a), (b), (c), and (d) of section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 415; Public Law 88-426);

(C) justices, judges, and other personnel in the judicial branch referred to in sections 402(d) and 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88-426);

(D) offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code; and

**(E)** the Governors of the Board of Governors of the United States Postal Service appointed under section 202 of title 39, United States Code.]

*(E) the Vice President of the United States, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the majority and minority leaders of the Senate and House of Representatives, except that the review of rates of pay of positions included in this subparagraph shall be made commencing with fiscal year 1975.*

Such review by the Commission shall be made for the purpose of determining and providing—

(i) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review, and

(ii) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(g) REPORT BY COMMISSION TO THE PRESIDENT.—The Commission shall submit to the President a report of the results of each review conducted by the Commission of the offices and positions within the purview of subparagraphs (A), (B), (C), [and (D)] (D), and (E) of subsection (f) of this section, together with its recommendations. [Each] Commencing with respect to fiscal year 1973, each such report shall be submitted on such date as the President may designate [but not later than January 1 next following the close] during the period from January 1 through June 30 of the fiscal year in which the review is conducted by the Commission.

(h) RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.—The President shall include, in the budget next transmitted by him to the Congress after the date of the submission of the report and recommendations of the Commission under subsection (g) of this section, his recommendations with respect to the exact rates of pay which he deems advisable, for those offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of subsection (f) of this section. As used in this subsection, the term "budget" means the budget referred to in section 201 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 11).]

*(h) RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.—Commencing in 1973, the President shall transmit to Congress; not later than the August 31 first occurring after the submission of the report and recommendations of the Commission under subsection (g) of this section, his recommendations with respect to the exact rates of pay which he deems*

*advisable, for those offices and positions within the purview of subparagraphs (A), (B), (C), (D), and (E) of subsection (f) of this section (including recommendations to be effective in fiscal year 1974 in accordance with subsection (i) of this section with respect to positions included in such subparagraph (E)).*

(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—

(1) Except as provided in paragraph (2) of this subsection, all or part (as the case may be) of the recommendations of the President transmitted to the Congress [in the budget] under subsection (h) of this section shall become effective at the beginning of the first pay period which begins after [the thirtieth day] *thirty calendar days of continuous session of Congress* following [the] transmittal of such recommendations [in the budget]; but only to the extent that, between the date of transmittal of such recommendations [in the budget] and the beginning of such first pay period—

(A) there has not been enacted into law a statute which establishes rates of pay other than those proposed by all or part of such recommendations [.]:

(B) neither House of the Congress has [enacted legislation] passed a resolution which specifically disapproves all or part of such recommendations [.] or

(C) both.

*The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.*

(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made operative on a date later than the date on which such recommendations otherwise are to take effect.

(j) EFFECT OF RECOMMENDATIONS OF THE PRESIDENT ON EXISTING LAW AND PRIOR PRESIDENTIAL RECOMMENDATIONS.—The recommendations of the President transmitted to the Congress immediately following a review conducted by the Commission in one of the fiscal years referred to in subsection (b) (2) and (3) of this section shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations (other than any provision of law enacted in the period specified in paragraph (1) of subsection (i) of this section with respect to such recommendations), and

(B) any prior recommendations of the President which take effect under this section.

(k) PUBLICATION OF RECOMMENDATIONS OF THE PRESIDENT.—The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

SEPARATE VIEWS OF HON. EDWARD J. DERWINSKI ON  
S. 1989

Having supported this legislation in committee, I endorse the committee report. However, I want to emphasize several key points which I believe deserve special attention.

First, S. 1989 is not a pay raise bill. It is legislation which alters the procedure for the consideration of top Government salaries and it alters this procedure for some very good reasons.

While I originally objected to the Quadrennial Commission on Executive, Legislative, and Judicial Salaries when it was created by the act of 1967. I now feel there is merit in a regular review of top Government salaries and I believe the Congress has all the means necessary to work its separate will on the recommendations which come out of this Commission.

The 4-year review, however, has been proven to be psychologically bad in that it produces recommended adjustments which are certainly staggering in the public eye. It is obviously difficult to defend a 4-year catch-up in top Government salaries when this 4-year lag is represented by recommendations of 25 or 30 or even 40 percent salary increases.

When these pay adjustments are recommended and approved, the percentage increases, covering as they do a 4-year period, become all out of proportion to what many people, thinking in terms of annual adjustments have come to expect in line with general economic conditions and the cost of living.

Therefore, a biennial review of these salaries, which S. 1989 provides for, is far more realistic and logical.

As we have already seen in recent press accounts, it is the Congress which is singled out for public abuse when the recommendations of this Salary Commission are discussed. This is unfair both to the Congress and to the other governmental positions which are within the purview of the Commission survey.

In addition to the 535 Members of Congress, there are nine other officers in the legislative branch, approximately 620 executive schedule positions, 1,138 positions in the judiciary, and upwards of 3,600 super-grade positions covered or directly affected by this salary adjustment process. In the case of the supergrades, their salaries are frozen by the limitation of executive level V, and the numbers of supergrades reaching this statutory limit will continue to grow unless a complete freeze is imposed on all Federal salaries. Therefore out of a total of some 5,900 positions affected by this legislation, Members of Congress represent less than 10 percent.

There is a traditional relationship between the pay of Members of Congress and officials in the other two branches, with the Members' pay being equated to circuit court judges and positions in the executive branch immediately below Cabinet officers.

This is a necessary relationship which should not be destroyed. It would be poor policy to permit the salaries of Federal judges and top level executive branch salaries to rise without consideration of congressional pay—and it is a distinct possibility this would happen should the opponents of this legislation have their way.

This legislation, S. 1989, is a practical solution to the difficult problem of setting top Government salaries in a fair and equitable manner. I reemphasize that this legislation offers us a procedural improvement to the existing system and should be considered only in that context. The future issue of exact rates of pay will come before the Congress in due time and that issue should not be confused with the purpose of S. 1989.

EDWARD J. DERWINSKI.

#### SEPARATE VIEWS OF HON. RICHARD W. MALLARY

A major flaw in the procedure for adjusting pay under the provisions of section 225 of the Federal Salary Act of 1967 is that it allows increases in the salary of Members of Congress to be approved and take effect in the same Congress.

This situation heightens the political sensitivity of increasing congressional pay. The merits of salary adjustments for other positions in the executive and judicial branches of Government that come within the purview of the Quadrennial Commission on Executive, Legislative, and Judicial Salaries should not be tied to political considerations.

I believe it is the duty and obligation of the Congress to decide the level of pay of its membership. I believe also that this action should be taken in the context of fixing pay for the office, but that the benefits of such action should not inure immediately to the Members who make such a decision.

There has been a tradition in several States that salary increases for State legislators, who either directly or indirectly approve those increases, do not take effect until after the next election and the new legislative body is sitting. I would hope that Congress would amend this act to insure that no legislative pay raises could go into effect until the next Congress, so that anyone would have an opportunity to run for the seat with full knowledge of the projected salary.

Therefore, I use these separate views to call attention to an amendment which I intend to offer at the appropriate time during consideration of S. 1989.

My amendment would provide that pay adjustments for offices and positions in the legislative branch take effect in the Congress next following the Congress in which the rates are approved. The specific language of my amendment states that such increases "may take effect no earlier than the third day of January of the odd-numbered year next following the date of transmittal of the recommendations of the President." This language ties the pay increases to the beginning of a new Congress.

Those covered by the amendment include:

Members of the House and Senate, including the Resident Commissioner from Puerto Rico and Delegates to the House of Representatives; the Vice President, Speaker of the House, President pro tempore of the Senate, and Majority and Minority Leaders of the Senate and House;

Also, the Comptroller General and the Assistant Comptroller General of the United States, the General Counsel of the General Accounting Office, the Librarian of Congress, the Public Printer, and the Architect of the Capitol.

I believe this amendment is supported by tradition and logic and would provide a more proper way of dealing with pay for Members of Congress.

RICHARD W. MALLARY.

### MINORITY VIEWS ON S. 1989

We are opposed to S. 1989 for at least three compelling reasons.

First, the bill is a brazen bid to get a pay raise for Members of Congress approved this year—a nonelection year—and each non-election year thereafter;

Second, it contains the ultimate transfer of authority from the Congress to the Executive—a delegation to the President of power to set the pay of the Leadership of the Congress;

Third, the legislation makes no improvement in the existing system for fixing the pay of Members of Congress, top executives, and judges, which is inconceivably bad and which ought to be repealed.

#### NONELECTION YEAR PAY RAISES

Under the provisions of law, which this bill will change, the President's recommendations for pay raises for Members of Congress, top executives, and judges are scheduled to come to the Congress next January as part of his budget message. The new rates of pay would then be effective on or about March 1—uncomfortably close to the dates of many State primaries.

The bill seeks to avoid that politically sensitive problem by requiring the pay raise recommendations to be submitted on August 31 of this year—sufficiently in advance of Christmas, New Year's, and the entire election year of 1974, so that hopefully they will have been forgotten by the electorate next year when the polling booths open.

We do not subscribe to the deviousness of this scheme and do not feel that the Congress should add to its present workload by scheduling a bill whose principal purpose is to assure pay raises in a nonelection year.

#### DANGEROUS DELEGATION OF POWER

We see no conceivable reason why the President of the United States should have the power to set the pay of the Speaker of the House, the President pro tempore of the Senate, and the Majority and Minority Leaders of the Senate and the House. Of all powers, the power to set pay can reasonably be considered an absolute power.

In fact, we deplore the situation that has existed during the past few years that has seen the Congress enact one statute after another turning over to the President its constitutional authority to set the pay of all Federal officers and employees. We have given the President the authority to set the pay of all employees under what were once known as "statutory salary systems"—those paid under the General Schedule, the Department of Medicine and Surgery of the Veterans' Administration, and employees and officers in the Foreign Service. Since military pay is now tied to the General Schedule, the President sets military pay as well. We abdicated our authority over postal employees' pay by turning it over to the process of collective bargaining. The President has authority over the pay for so-called wage board

employees, and in 1967 the Congress gave the President the power to set the pay of Members of Congress, Federal judges, and top officials in the Executive Department. Either directly or indirectly, the President now sets the pay of every person on the Federal payroll with the exception of his own and that of the Vice President, the Speaker, the President pro tempore and the Majority and Minority Leadership. With the passage of this bill, the only exception will be his own salary.

If a pay differential is to exist between the pay of a Member of Congress and the pay of its Leadership, this differential should be determined by the Congress itself. Under no condition should this power be turned over to the President.

**PAY COMMISSION SHOULD BE ABOLISHED**

The mere fact that this bill is progressing through the Congress is proof that the existing system for setting pay for Members of Congress, top executives, and judges is not working as it was originally conceived by its sponsors. It apparently has not accomplished the intended result of taking Members "off the spot" with respect to their own pay, since, in this instance, they are going to have to vote twice on the issue; first on this bill, and again when the pay recommendations actually come to the Congress.

The idea of appointing an impartial outside commission to study the problem for a year at a cost of a half-million dollars is an absolutely unnecessary waste. At a hearing before the committee, the Chairman of the Civil Service Commission testified that his agency had all the expertise necessary to conduct the necessary surveys and to make objective and impartial recommendations. In fact, he testified that the Civil Service Commission provided much of the backup material used by the Presidential appointed Commission.

Further, the law provides that the President can make his own recommendations, regardless of what has been recommended to him by the Commission. This was the case in 1969 when President Johnson ignored his Commission's recommendations and set lower rates of pay. There is evidence that the same thing will happen with respect to the upcoming salary recommendations.

The commission concept is an obviously expensive facade and the Commission should be abolished.

But more importantly, the power of the President to actually set the pay of Members of Congress should be rescinded. Such Presidential power over the pay of Members of Congress and other top officials of our Government could lead to abuse and intimidation. It is possible that in some future administration, judicial decisions could be influenced, executive branch policies could be altered, decisions of quasi-judicial boards or commissions could be changed, and undue pressures could be brought on the Congress itself if such power over pay were abused either by the Chief Executive or by his assistants who pretend to speak for him.

By any reasonable judgment of the time-honored "doctrine of separation of powers," the pay of Members of Congress should be set by the Congress itself.

PRESIDENT DECIDES TIMING

We think it important also to emphasize that even if this bill is enacted, the hoped for result of avoiding a pay raise in an election year may not be achieved. While the bill does require the President to submit to Congress this year his total package of recommendations on pay, the bill does not change existing provisions of law which permit the President to make the raises effective anytime later at his discretion. Consequently, it is entirely possible and probable that the President's recommended pay raise for Members of Congress will be effective next January, or possibly next March 1, as he so indicated when he appointed the Pay Commission last December. In other words, existing law not only gives the President the right to set the amount of pay, but it gives him absolute discretionary authority on the timing of that pay raise.

MUST BE AMENDED

While we are opposed not only to the bill, but also to the existing system for setting pay, we will support an amendment to the bill that will guarantee a Senate and House vote on the President's pay recommendations. The present system provides that the President's recommendations shall become effective, unless vetoed by either house within 30 days. However, there is no guaranteed way of getting a resolution of disapproval to the floor within the 30-day period. At the very least, we will support an amendment that will give privileged status to a resolution, requiring committee action within 10 days and permitting any Member to call the resolution up on the House floor after the 10-day period.

DOES NOT SOLVE PROBLEMS

S. 1989 does not solve any of the problems involved in setting the pay of Members of Congress, judges, and top officials in the Executive Departments. We see its main objective as an attempt to secure a 25 to 30 percent pay raise for Members and the other officials involved, at the worst possible time. This is a bill with which Members of Congress can do something specific in the fight against inflation. They can vote against this bill and prevent the problems it will cause.

H. R. GROSS.  
JOHN H. ROUSSELOT.  
ELWOOD H. HILLIS.  
ANDREW J. HINSHAW.  
L. A. (SKIP) BAFALIS.

